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HOUSE BILL 812

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Candy Spence Ezzell

AN ACT

RELATING TO WATER; PROVIDING FOR ADDITIONAL DUTIES FOR DIRECTORS OF ARTESIAN CONSERVANCY DISTRICTS REGARDING INTERBASIN TRANSFERS; PROVIDING FOR COMPLIANCE WITH AN ARTESIAN CONSERVANCY DISTRICT REQUIREMENT FOR A CHANGE IN POINT OF DIVERSION OR PLACE OR PURPOSE OF USE OF A WATER RIGHT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 72, Article 12 NMSA 1978 is enacted to read:

"[NEW MATERIAL] ARTESIAN CONSERVANCY DISTRICTS--CHANGES IN POINT OF DIVERSION OR PLACE OF USE.--

A. The state engineer shall not approve an application for a change, including an emergency change, in point of diversion or place of use of a ground water right from within an artesian conservancy district organized pursuant to

.166298.1

underscored material = new
[bracketed material] = delete

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1 Chapter 73, Article 1 NMSA 1978 to a point of diversion or
2 place of use outside the boundaries of the district if the
3 applicant has not complied with the applicable requirement
4 adopted by the district pursuant to law.

5 B. The applicant for a change described in
6 Subsection A of this section shall submit with the application
7 to the state engineer documentary evidence provided by the
8 artesian conservancy district of the applicant's compliance
9 with any applicable requirement for the change adopted by the
10 district pursuant to law.

11 C. If an artesian conservancy district has not
12 adopted an applicable requirement, the applicant shall submit
13 to the state engineer along with the application an affidavit
14 provided by the district stating this fact.

15 D. If the artesian conservancy district fails to
16 make a decision within one hundred twenty days in response to
17 an applicant's request for approval pursuant to an applicable
18 requirement, the district shall be deemed to have approved the
19 applicant's request for approval and the state engineer shall
20 proceed on the application as if the applicant had complied
21 with any applicable artesian conservancy district requirement.

22 E. Water rights purchased and transferred by the
23 interstate stream commission are not subject to the
24 requirements of this section."

25 Section 2. A new section of Chapter 73, Article 1 NMSA

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underscored material = new
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1 1978 is enacted to read:

2 "[NEW MATERIAL] BOARD OF DIRECTORS--ADDITIONAL DUTIES--
3 APPROVAL OF CHANGES IN POINT OF DIVERSION OR PLACE OF USE OF
4 GROUND WATER RIGHTS.--

5 A. Pursuant to bylaws duly adopted by the district,
6 a district may require that a change in point of diversion or
7 place of use of a ground water right from within an artesian
8 conservancy district to a point of diversion or place of use
9 outside the boundaries of the district shall be subject to
10 approval by the directors of the district. The request for
11 director approval shall be in writing and delivered by
12 certified mail to the district. The directors may deny the
13 change only if they determine that the proposed change would be
14 detrimental to the district or its members. The directors may
15 require as a condition of approval that the owner of the
16 transferred water right be assessed as though the water right
17 remained appurtenant to the land as previously assessed for
18 levy and collection of fees due to the district. The directors
19 shall render a written decision setting forth the reasons for
20 their decision. The person proposing the change or a member of
21 the district may appeal the decision of the directors to the
22 district court of the county within which the district is
23 located within thirty days of receipt of notice of the decision
24 by the person proposing the change. The district court may set
25 aside, reverse or remand the decision of the directors if it

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[bracketed material] = delete

1 determines that the directors acted fraudulently, capriciously,
2 arbitrarily or contrary to law.

3 B. Nothing in this section shall be construed as
4 authorizing changes in the point of diversion or place of use
5 of ground water rights not otherwise permitted by law.

6 C. Water rights purchased and transferred by the
7 interstate stream commission are not subject to the
8 requirements of this section."

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